

NOTICE OF FINAL RULEMAKING

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

ARTICLE

PREAMBLE

1.

<u>Sections Affected</u>	<u>Rulemaking Action</u>
R7-2-306	Amend
 2.

The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. §15-203(A)

Implementing statutes: A.R.S. §§ 15-751- 15-756
 3.

Effective Date of the Rule:

Consistent with A.R.S. § 41-1032, these rules become effective sixty days after certification by the Attorney General and filing with the Secretary of State.
 4.

A list of all previous notices appearing in the Register addressing the final rule:

Vol. #	Page #	Issue Date
7	4919	October 19, 2001
7	4784	October 19, 2001
9	506	February 21, 2003
 5.

The name and address of agency personnel with whom persons may communicate regarding the rule:

Name: Christy Farley, Executive Director

Address: 1535 W. Jefferson, Room 227, Phoenix, Arizona 85007

Telephone Number: (602) 542-5057

Facsimile Number: (602) 542-3046

6. **An explanation of the rule, including the agency's reasons for initiating the rule:**

The State law governing required services for English language learners ("ELLs") formerly known as "limited English proficient or LEP students," has changed significantly in recent years. In November 2000, Arizona voters approved Proposition 203, which repealed A.R.S. Title 15, Chapter 7, Article 3.1, and replaced it with a new Article 3.1 (codified as A.R.S. §§ 15-751 to 15-756).

In addition, the issuance of a federal court judgment and consent decree in *Flores v. State of Arizona*, United States District Court case no. CIV 92-596 TUC-ACN ("*Flores*"), further changed the legal landscape in this area. The *Flores* consent order imposed a number of duties on the State Board of Education ("Board") and the State Superintendent of Public Instruction ("Superintendent") relating to the identification of and services for ELLs.

These rules are intended to begin to implement the mandates of the *Flores* consent order and Proposition 203 passed by the voters in 2000.

7. **A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:**

None

8. **A showing of good cause why the rule is necessary to promote a statewide interest**

if the rule will diminish a previous grant of authority of a political subdivision of this state:

The rule will not diminish a previous grant of authority of a political subdivision of this state.

9. The summary of the economic, small business and consumer impact:

Although the Rule imposes various requirements on schools and the Arizona Department of Education (“Department”), those requirements are unlikely to have any economic impact on small businesses and consumers.

The Rule will most likely result in increased costs for schools in three fiscal areas. First, schools will be required to perform new and additional assessments of certain students to determine their English language proficiency. Second, schools may be required to hire additional or new teachers with appropriate training to teach students enrolled in ELL programs. Third, schools may be required to hire additional staff to track ELL student progress and report that information to the Department. All of these requirements will likely require additional school resources, but the economic impact on each school will of course vary, depending upon the school’s available resources and its ELL population. The Arizona Legislature did address these funding concerns with the passage of HB 2010, Forty-fifth Legislature, 2nd special session, 2001, Chapter 9. In the legislation, the Legislature included the following intent language:

"With the information currently available, the legislature finds the level of funding in this legislation to be reasonable. The legislature recognizes that further study and evaluation are necessary to determine whether the funding for this program should be adjusted."

This legislation included the following funding for schools: (1) \$4.5 million in each of fiscal years 2003-2005 to provide reimbursement for teachers for the successful completion of courses or other training required to acquire a structured English immersion endorsement or a bilingual education endorsement; (2) \$3.08 million in fiscal year 2002 and \$5.5 million in each of fiscal years 2003-2005 for distribution to school districts and charter schools for compensatory instruction for English learners; (3) \$1.5 million in each of fiscal years 2003-2005 for distribution to school districts and charter schools to pay for instructional materials and supplies for language acquisition programs

The Rule will also result in increased costs for the Department because the Rule requires that the Department to monitor school compliance with the Rule and with statutes related to ELL education. The Legislature also appropriated funding for this purpose in the legislation mentioned above in an amount of \$158,050 in fiscal year 2002 and \$316,095 in each of fiscal years 2003-2005 to pay for 4.5 FTE positions in order to monitor language acquisition programs.

While it is currently unclear as to whether this increased funding is sufficient to meet the costs of the requirements under state statute and these rules, the legislature has also established a joint committee and provided funds to evaluate the various teaching programs in place or available, recommend programs for successful English language acquisition programs of non-English speaking students in Arizona schools and to determine whether the level of funding associated with such programs should be adjusted. This study is to be concluded by the end of 2003 and the legislature expects legislative review during 2004.

It is also expected that there will be a positive impact on English language learner students through improved English language acquisition services they receive that cannot be quantified.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

The changes made between the proposed rule and the first Notice of Final Rulemaking submitted to the Attorney General's Office for review in January 2002 are as follows:

Page 9, Paragraph F (4); Page 17, Paragraph I (3): Before “Written” add “A”; then replace “W” in “Written” to “w”; before “documentation”, then insert “plan or other written”; then after “documentation” insert “describing”; then delete “of”, in response to public comment and Attorney General's opinion. Thus, these sections should now read: “A written plan or other written documentation describing the compensatory instruction provided shall be kept in the student’s academic file.”

Page 12, Paragraph G (3); G (4): After “publisher’s” replace “recommended” with “designated”, in response to public comment.

Page 12, Paragraph G (5): After “as” replace “FEW” with “FEP”, for clarification of intent.

Page 18, Paragraph J (4): After “that” replace “shal” with “shall”, for clarification of intent.

Page 18, Paragraph J (7): After “funds” add “for LEP students”, in response to public comment.

Page 19, Paragraph K (1-2): Delete the added Paragraph K, in response to public comment.

The changes made in the supplemental rulemaking notice adopted by the State Board of Education in January 2003 and printed in the Secretary of State's Administrative Register on February 21, 2003 are as follows:

The proposed rules used the term “IEP,” but did not include a definition for the term. The supplemental rules included a definition that is incorporated into this Notice of Final Rulemaking.

The proposed rules, when referring to scores on assessments, made reference to the proficiency scores set by the publisher of the assessments. The supplemental rules clarified that the proficiency scores will be adopted by the State Board of Education (“Board”), by adding language that allows the Board to set a proficiency score of its own determination if it believes the publisher’s proficiency score to be inappropriate. This change is included in this Notice of Final Rulemaking.

The proposed rules, when addressing the re-evaluation of students exited from ELL programs, indicated that proficiency scores on the evaluations would be set by the Superintendent of Public Instruction (“Superintendent”). Since it is the Board, and not the Superintendent, that is charged by statute with adopting assessments, the supplemental rules, and this Notice of Final Rulemaking, add language that properly vests that power with the Board.

The proposed rules required that the same test be used for reassessment of ELLs as was used for their initial assessment. The proposed rules did not address what a school should do if the test used for the initial assessment was no longer published. The

supplemental rules addressed this issue by adding language that allows the school to adopt an appropriate reassessment test if the original test is no longer available. This change is incorporated into these proposed final rules.

No additional changes have been made to this rules package following the Notice of Supplemental Rulemaking.

11. A summary of the principal comments and the agency response to them:

The following comments were made to the proposed rules:

Comment: Students in kindergarten and first grade should be administered reading and writing tests for English proficiency not just oral.

Response: Students in kindergarten and first grade are not administered reading and writing tests for English proficiency because students have not yet attained these skills. The reading, writing and oral English proficiency tests are administered in grades 2-12 when they have attained the necessary skills, and if a student is reclassified as FEP, the student will be evaluated yearly for the next 2 years to determine if the student is performing satisfactorily.

Comment: Teacher qualifications, experience, background and training requirements are not specifically identified, and there are no specifications for the number of, or in which academic areas, EL qualified teachers are required for an EL program.

Response: Delete section K and begin new rule process to address this issue.

Comment: Not eliminate endorsements.

Response: Elimination of endorsements was not included in this activity.

Comment: Consistency in using the terms “designated” and “recommended” score.

Response: Amended to “designated” score.

Comment: Use of IEP instead of “written documentation”.

Response: IEP is language used in Special Education and not applicable; amend to “written plan/documentation”.

Comment: Language directed Superintendent to withhold Group B weight funds from LEA, not just Group B weight funds for LEP students.

Response: Amend to read “ Superintendent to withhold Group B weight funds for LEP students”.

Comment: Evaluation instructions should include AIMS and Stanford 9.

Response: The rule adequately addresses the issue as proposed.

Comment: Inclusion of waiver process identified in Proposition 203.

Response: Superintendent is seeking an Attorney General’s Opinion for clarification before proposing as rule language.

Comment: Only students identified as PHLOTE on a home language survey are to be assessed.

Response: Only parents or legal guardians may complete the home language survey. The rule language is consistent with existing practice and aligns with federal requirements.

The following comments were made addressing the Notice of Supplemental Rulemaking:

Comment: There is language in the rules that is not consistent with the Flores Consent Order.

Response: The Board acknowledges that this rules package is the first step toward substantial compliance with the *Flores* consent order and Proposition 203 passed in 2000, but that additional rules are necessary to make further modifications and additions. To

facilitate further discussion and resolution of the outstanding issues, the Board opened a new docket at the January 2003 Board meeting to allow for further modifications to R7-2-306 pending additional discussion with interested parties. The interested parties, including Mr. Tim Hogan, lawyer for the defendant in the Flores vs. State of Arizona court case, agreed to this response. The first meeting between the State Board of Education, the Department of Education staff, and interested parties has been scheduled for April 2003.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable.

13. Incorporations by reference and their location in the rules:

None.

14. Was this rule previously adopted as an emergency rule?

No.

15. The full text of the rule follows:

TITLE 7. EDUCATION

CHAPTER 2. STATE BOARD OF EDUCATION

ARTICLE 3. CURRICULUM REQUIREMENTS AND SPECIAL PROGRAMS

R7-2-306. ~~Bilingual programs and English as a second language program~~ English language learner programs

A. Definitions. All terms defined in A.R.S. §15-751 are applicable, with the following additions:

1. “AIMS test” means the Arizona Instrument to Measure Standards test prescribed by A.R.S. §15-741.
2. “Board” means the State Board of Education.
3. “Compensatory instruction” means instruction given in addition to regular classroom instruction, such as individual or small group instruction, extended day classes, summer school or intersession school.
4. “Department” means the Department of Education.
5. “ELL” means English language learner.
6. “English language skills” means, for grades 2-12, speaking, reading, writing, and listening. For grades K-1, English language skills means speaking and listening.
7. “FEP” means fluent English language proficient, a student who has met the requirements for exit from the English language learner program.
8. “IEP” means individualized education program, a written statement specifying special education services to be provided to a child with a disability.

9. “LEA” means local education agency, the school district or charter school that provides educational services.
10. “PHLOTE” means primary or home language other than English.
11. “Reassessment for reclassification” means the process of determining whether an English language learner may be reclassified as fluent English proficient (FEP).
12. “Superintendent” means the State Superintendent of Public Instruction.
13. “WICP” means written individualized compensatory plan.

A B. Identification of students to be assessed

1. The primary or home language of all students shall be identified by the students’ parent or legal guardian on the ~~upon~~ enrollment forms and on the home language survey.
2. ~~The primary home language of the student shall be considered to be other than English in any of the following cases~~ A student shall be considered as a PHLOTE student if the home language survey indicates that one or more of the following are true:
 - a. The primary language ~~most often spoken~~ used in the student’s home is a language other than English, regardless of the language spoken by the student.
 - b. The language most often spoken by the student is a language other than English.
 - c. The student’s first acquired language is a language other than English.
3. The English language proficiency of all PHLOTE students shall be assessed as provided in subsection C.

B C. English language proficiency assessment

1. PHLOTE ~~sStudents~~ students in kindergarten and first grade ~~whose primary language is other than English~~ shall be administered an oral English language proficiency assessment test approved by the State Board. ~~of Education for the purpose of assessing the comprehension and speaking of English. (Appendix A)~~ Students ~~in kindergarten and first grade~~ who score below the publisher's designated score for fluent English language proficiency, or other such score adopted by the Board, ~~proficient~~ shall be classified as ~~limited English proficient (LEP) students~~ ELLs.
2. PHLOTE ~~sStudents~~ students in grades 2-12 ~~whose primary language is other than English may be screened prior to the administration of a State Board of Education approved oral language proficiency assessment test. For the purpose of screening, schools shall review the achievement level on the English reading comprehension subtest of the state pupil achievement testing program. Students in grades 2-12 whose primary language is other than English and who score at or below the 40th percentile or for whom no standardized test scores are available shall be administered an oral language proficiency assessment test approved by the State Board of Education.~~ shall be administered the oral, reading and writing English language proficiency tests approved by the Board. Students who score below the publisher's designated score for fluent English ~~proficient~~ proficiency, or such other score adopted by the Board, shall be classified as ~~limited English proficient~~ ELLs.

3. ~~Upon district staff recommendation or parental request, students in grades 2-12 whose primary language is other than English and who score above the 40th percentile on the reading comprehension subtest of the state pupil achievement testing program shall be administered an oral language proficiency assessment test approved by the State Board of Education. Students who score below the publisher's designated score for fluent English proficient shall be classified as limited English proficient. English language proficiency assessment(s) shall be conducted by individuals who are proficient in English and trained in language proficiency testing to administer and score the tests.~~
4. ~~Students in grades 2-12 whose primary language is other than English and who score as fluent English proficient on the State Board of Education's approved oral language proficiency assessment test shall be evaluated for achievement in English reading and writing. Students who are determined to be performing below district standards established pursuant to R7-2-301 and R7-2-302 for grade level shall be tentatively classified as limited English proficient and referred for primary language assessment. The LEA shall assess the English language proficiency of all new PHLOTE students as prescribed above within 60 school days of the beginning of the school year or within 30 school days of a student's enrollment in school, whichever is later.~~
5. ~~English language proficiency assessments shall be conducted by individuals who are proficient in English and who have been thoroughly trained to administer and score the test or procedure.~~

C. ~~Primary language assessment~~

- ~~1. Students who are classified as limited English proficient shall be administered a primary language assessment in comprehending, speaking, reading, and writing utilizing tests or procedures approved by the State Board of Education.

(Appendix B) Students in kindergarten and first grade and students whose primary language is not commonly written, need not be assessed in reading and writing the primary language.~~
- ~~2. Primary language assessments shall be conducted by individuals who are proficient in the particular language and who have been thoroughly trained to administer and score the test or procedure.~~
- ~~3. Students in grades 2-12 who were classified as limited English proficient on the basis of reading and writing alone and who demonstrate no language proficiency in a language other than English shall be further reviewed by the district to determine whether the student's low performance in reading and writing is because the student is from an environment in which another language is spoken. If the district finds that the low achievement is language related the student shall continue to be classified as limited English proficient.~~
- ~~4. Students in grades K-12 who, as a result of the language assessments, are determined to have little or no fluency in either language shall continue to be classified as limited English proficient and shall be referred for further evaluation to complete the assessment.~~

~~D. Assessment of students in Special Education or in the Referral Process~~

- ~~1. Students in special education whose primary language is other than English shall be assessed for limited English proficiency as prescribed in subsections (B) and (C). If the special education director or designee finds the procedures to be inappropriate for a particular student because of the nature of the handicapping condition, the district shall employ alternate procedures for assessing English and primary language skills.~~
- ~~2. Students in special education shall be classified as limited English proficient as prescribed in subsections (B) and (C). If the special education director or designee finds these standards to be inappropriate for a particular student, he shall determine the impact of the handicapping condition upon the level of language proficiency and shall set the standards for each student accordingly. Persons conducting the language assessments shall participate with the special education director or designee in the determination of the student's language proficiency designation.~~
- ~~3. Students whose primary language is other than English and who have been referred for special education evaluation shall be assessed for limited English proficiency as prescribed in subsections (B) and (C). If the multidisciplinary conference team finds the procedures to be inappropriate for a particular student because of the nature of the handicapping condition, the district shall employ alternate procedures for assessing English and primary language skills.~~
- ~~4. Students who have been referred for special education evaluation shall be classified as limited English proficient as prescribed in subsections (B) and (C).~~

~~If the multidisciplinary conference team finds these standards to be inappropriate for a particular student, the team shall determine the impact of the handicapping condition upon the level of language proficiency and shall set the standards for each student accordingly. Persons conducting the language assessments shall participate with the multidisciplinary conference team in the determination of the student's language proficiency designation.~~

D. Assessment of students in special education or in the special education referral process.

If a multidisciplinary evaluation or IEP team finds the procedures prescribed in subsections B and C inappropriate for a particular special education student, the LEA shall employ alternate procedures for identifying such students or assessing their English language proficiency. Persons conducting the English language assessment shall participate with the special education multidisciplinary evaluation or IEP team in the determination of the student's English language proficiency designation.

E. Time to complete assessment

- ~~1. English and primary language assessments shall be completed by December 1, 1984, for all students whose primary language is other than English, and by December 1, annually, thereafter for all newly enrolled students whose primary language is other than English.~~
- ~~2. Students whose primary language is other than English and who enroll after December 1, shall be assessed within 30 days of enrollment.~~

E. Screening and assessment of students in gifted education.

ELLs who meet the qualifications for placement in a gifted educational program shall receive programmatic services designed to develop their specific areas of potential and

academic ability and may be concurrently enrolled in gifted programs and English language learner programs.

~~F. Program options~~

- ~~1. All students who have been classified as limited English proficient shall be provided a program as prescribed in A.R.S. § 15-799.03.~~
- ~~2. Limited English proficient students shall be provided the State Board of Education's course of study pursuant to R7-2-301 and R7-2-302.~~

F. English language learner programs

1. All ELLs shall be provided daily instruction in English language development appropriate to their level of English language proficiency and consistent with A.R.S. §15-751 and 752. The English language instruction shall include listening and speaking skills, reading and writing skills, and cognitive and academic development in English.
2. ELLs shall be provided instruction in subject areas under the course of study adopted by the Board pursuant to R7-2-301 and R7-2-302 that is understandable and appropriate to the level of academic achievement of the ELL and is in conformity with accepted strategies for teaching ELLs.
3. The curriculum of all English language learner programs shall incorporate the Academic Standards adopted by the Board and shall be comparable in amount, scope and quality to that provided to English language proficient students.
4. ELLs who are not progressing toward achieving proficiency of the Academic Standards adopted by the Board, as evidenced by the failure to improve scores on the AIMS test or the nationally standardized norm-referenced achievement test

adopted pursuant to A.R.S. §15-741, shall be provided additional compensatory instruction to assist them in achieving those Academic Standards. A WICP describing the compensatory instruction provided shall be kept in the student's academic file.

5. The parent or legal guardian of an ELL may request of the school principal a meeting to review the student's progress in achieving proficiency in the English language or in making progress toward the Academic Standards adopted by the Board. The meeting shall include the principal or principal's designee, the parent or legal guardian, and the classroom teacher, and shall consider appropriate actions to be taken to address the identified problems.

G. Reassessment for reclassification

1. ~~The purpose of reassessment is to determine if a limited English proficient student~~ the ELL ~~has developed the English language skills necessary to succeed in the English language curricula.~~
2. ~~A limited English proficient student~~ An ELL ~~may be reassessed for reclassification to fluent English proficient at any time but no less than every two years~~ at any time, but shall be reassessed for reclassification at least once per year.
3. ~~All of the following criteria must be met in order for a student to be reclassified:~~
 - a. ~~Teacher evaluation. The teacher must observe the student's oral English proficiency and review the student's performance on the State Board of Education's minimum competency skills in the required subjects to determine the student's readiness to succeed in an English language~~

~~course of study. The student must be performing at a level consistent with district standards for grade level established pursuant to R7-2-301 and R7-2-302.~~

- ~~b. Parental opinion and consultation. At least one of the student's parents or legal guardians must be contacted by telephone, written communication, or personal interview in the language of the home to inform him/her that the child is being considered for reclassification and to give him/her the opportunity to review student performance data and to provide input into the reclassification decision.~~
- ~~c. Objective assessment of English oral language proficiency. The student must be reassessed with an oral language proficiency assessment test selected by the district from the State Board of Education's approved list. The student must achieve the publisher's designated score for fluent English proficient.~~
- ~~d. Objective assessment of writing skills. The student shall demonstrate writing skills at a level consistent with the district standards for grade level established pursuant to R7-2-301 and R7-2-302. This shall be determined by use of a standardized writing test or by a writing sample.~~
- ~~e. Objective assessment of reading skills. Two options are provided for this standard:~~
 - ~~i. The student shall have scored at or above the 36th percentile of national norms on the reading comprehension subtest of the state pupil achievement testing program; or~~

- ii. ~~The student shall have scored in the range of the 31st to the 35th percentile if the criteria in subparagraphs (a) through (d) are met and a decision to reclassify is made by a language assessment team which includes the student's parent, the student's limited English proficiency program teacher pursuant to A.R.S. § 15-799.03, and a school district representative.~~
- 3. ELLs in kindergarten or first grade shall be reassessed with the same oral test of English language proficiency used for initial assessment, unless the same test is no longer published or available when a student is to be reassessed. In such case the school shall select a comparable test for reassessment. Students who score at or above the test publisher's designated score for English language proficiency, or such other score adopted by the Board, may be reclassified as FEP. LEAs may also consider other indications of a student's overall progress, including teacher evaluation, and subject matter assessments that are aligned with grade level state content and performance standards.
- 4. ~~Students who are exempt from the state pupil achievement testing program pursuant to A.R.S. § 15-744(B), need not be administered an English reading and writing test. Such students shall continue to be classified as limited English proficient.~~
- 4. ELLs in grades 2-12 shall be reassessed with the same oral, reading and writing English language proficiency tests used for initial assessment, unless the same test is no longer published or available when a student is to be reassessed. In such case the school shall select a comparable test for reassessment. Students who

score at or above the test publisher's designated score for English language proficiency, or such other score adopted by the Board, in all of the tests shall be reclassified as FEP.

5. ~~Review of program sufficiency. When, as a result of each reassessment, a student continues to be classified as limited English proficient, a review of the program services offered must be conducted. The purpose of the program review will be to determine whether the program model and services selected for the student are being provided of the nature and to the extent necessary to afford the limited English proficient student the opportunity to acquire sufficient English language and academic skills to enable the student to meet reclassification criteria.~~

5. Teachers shall be notified in writing that a student has been reclassified as FEP when the student meets the criteria for such reclassification.

6. ~~Follow-up for reclassified students. For one year following the reclassification of each student, the district shall review achievement levels to ensure that each student has been correctly reclassified. This review must be conducted at least twice during the follow-up year.~~

6. Parents shall be notified in writing that their child has been reclassified as FEP when the student meets the criteria for such reclassification.

- H. ~~Reassessment for reclassification of limited English proficient students whose language needs are addressed within the context of special education~~ of special education students for English language reclassification.

If a multidisciplinary evaluation or IEP team finds the procedures prescribed in subsection G inappropriate for a particular special education student, the LEA shall

employ alternate procedures for reassessing the student for purposes of English language reclassification. Persons conducting the English language reassessment shall participate with the special education multidisciplinary evaluation or IEP team in the determination of the student's English language proficiency designation.

1. ~~Reassessment for language reclassification may be conducted at any time but no less than every two years. This process shall be conducted in conjunction with the review of the individualized education plan (IEP) team.~~
2. ~~The purpose of the reassessment is to determine whether the limited English proficient student in special education has developed the English language skills necessary to succeed in English-only instruction.~~
3. ~~The reassessment of special education students for reclassification shall be conducted as prescribed in subsection (G). If the individualized education plan team finds the procedures to be inappropriate for a particular student because of the nature of the handicapping condition, the district shall employ alternate procedures for reassessment.~~
4. ~~Special education students shall be reclassified to fluent English proficient as prescribed in subsection (G). If the individualized education plan team finds these standards to be inappropriate for a particular student, the team shall determine the impact of the handicapping condition upon the level of language proficiency and shall set the standards for each student accordingly. Persons conducting the language assessments shall participate with the individualized education plan team in the determination of the student's language proficiency designation.~~

I. Evaluation of FEP students after exit from ELL programs

1. After a student has been reclassified as FEP, the student shall be evaluated yearly for the next 2 years to determine if the student is performing satisfactorily on the reading and writing assessment as determined by the publisher, or as determined by the Board. The evaluation shall use the same English language proficiency test for testing reading and writing skills as was used for the initial assessment of the exited student, unless the same test is no longer published or available when a student is to be evaluated. In such case the school shall select a comparable test for evaluation. In order to be performing satisfactorily in reading and writing skills, the student shall score at or above the proficiency scores established by the publisher, or such other scores adopted by the Board.
2. In evaluating an exited student's mathematics skills and content mastery, the LEA shall use either the AIMS test or the nationally standardized norm-referenced achievement test adopted pursuant to A.R.S. §15-741.
3. If the AIMS test is used to assess mathematics skills and mastery of academic content areas, the student shall meet or exceed State standards. If the nationally standardized norm-referenced achievement test adopted pursuant to A.R.S. § 15-741 is used to assess mathematics skills and mastery of academic content areas, the student shall score at or above the proficiency score established by the publisher, or such other scores adopted by the Board. The exited student's AIMS or nationally standardized norm-referenced achievement test scores shall also be compared to the scores of other students of the same age or grade level within the state to determine whether the student is performing satisfactorily.

4. Exited students who are not performing satisfactorily shall, subject to parental consent, be re-enrolled in an ELL program and/or be given compensatory instruction designed to correct the skill or knowledge deficits indicated by the reassessment result. A WICP describing the compensatory instruction provided shall be kept in the student's academic file.

J. Monitoring of ELL programs

1. Each year the Department shall monitor at least 32 LEAs, as follows:
 - a. At least 12 of the 50 LEAs with the highest ELL enrollment;
 - b. At least 10 LEAs with ELLs that are not included in the 50 described above;
 - c. At least 10 LEAs that have reported that they do not offer ELL programs in their schools, and
 - d. Other LEAs, as appropriate, upon receipt of a written complaint from any Arizona resident, the U.S. Department of Education, or the U.S. Office for Civil Rights, alleging that the LEA is not complying with state or federal law regarding ELLs.
2. All of the 50 LEAs in subsection 1(a) above shall be monitored by the Department at least once every 4 years.
3. The monitoring shall be on-site monitoring and shall include classroom observations, curriculum reviews, faculty interviews, student records, and review of ELL programs. The Department may use personnel from other schools to assist in the monitoring.

4. The Department shall issue a report on the results of its monitoring within 45 days after completing the monitoring. If the Department determines that an LEA is not complying with state or federal laws applicable to ELL students, the LEA shall prepare and submit to the Department, within 60 days of the Department's determination, a corrective action plan that sets forth steps that shall be taken to correct the deficiencies noted in the report.
5. The Department shall review and return such corrective action plan to the LEA within 30 days, noting any required changes. Within 30 days after receiving its corrective action plan back from the Department, the LEA shall begin implementing the measures set forth in the plan, including any revisions required by the Department.
6. The Department shall conduct a follow-up evaluation of the LEA within one year after returning the corrective action plan to the LEA.
7. If the Department finds continued non-compliance during the follow-up evaluation, the LEA shall be referred to the Board for a determination of non-compliance. If the Board determines the LEA to be in non-compliance, it may instruct the Superintendent to withhold from the LEA those funds that the LEA would normally receive for ELLs under A.R.S. § 15-943(1)(b) until the Department finds the LEA to be in compliance. An LEA determined by the Board to be non-compliant shall not reduce the amount of funds spent on its ELL programs as the result of the loss, pursuant to this subsection, of funds it would normally receive for ELLs under A.R.S. § 15-943(1)(b).
8. The Department shall monitor all LEAs that the Board has determined to be

non-compliant and which are no longer receiving ELL funds under A.R.S. § 15-943(1)(b) to ensure that such LEAs do not reduce the amount of funds spent on their ELL programs as the result of the withholding of such funds.

Appendix A
English Language Assessment Tests and Procedures

A. Oral Language Proficiency Assessment

1. The following tests are approved for oral language assessment in English:

a. Bilingual Syntax Measure I (BSM I) K-2

b. Bilingual Syntax Measure II (BSM II) 3-12

Publisher: The Psychological Corporation

c. IDEA Oral Language Proficiency Test I (IPT I) K-6

d. IDEA Oral Language Proficiency Test II (IPT II) 7-12

Publisher: Ballard and Tighe, Inc.

e. Language Assessment Scales I (LAS I) Forms A and B, K-5

f. Language Assessment Scales (LAS II) Forms A and B, 6-12

g. Language Assessment Scales I (LAS I) Short Form, K-5

h. Language Assessment Scales II (LAS II) Short Form, 6-12

Publisher: Linguametrics Group

2. Districts may request authorization on an annual basis to utilize a test not listed above. The request shall be submitted to the Department of Education by April 1 and shall include a copy of the test and the technical manual for the test. The Department of Education shall review and approve/disapprove such requests by June 1 annually, based upon the technical adequacy of the test in the areas of norming, reliability, validity, and administration.
3. Districts which conducted oral language proficiency assessment prior to August, 1984 may continue to utilize the current tests for the 1984-1985 school year if the tests provide for the individual assessment of comprehension and speaking.

B. ~~Reading and Writing Assessments~~

- ~~1. Districts shall utilize the reading comprehension subtest of the state pupil achievement test or district procedures established pursuant to R7-2-301 and R7-2-302 to assess proficiency in reading English.~~
- ~~2. Districts shall utilize procedures established pursuant to R7-2-301 and R7-2-302 to assess proficiency in writing English.~~

~~Appendix B~~

~~Primary Language Assessment Tests and Procedures~~

- ~~A. Districts shall utilize formal tests to the extent such tests are available in the particular language for assessing comprehension, speaking, reading, and writing. Districts may refer to a list of such tests maintained by the Department of Education.~~
- ~~B. The parallel versions of the tests listed under Appendix A, (A)(1) shall be used for oral language proficiency assessment in the native language, if available.~~
- ~~C. In the event no test is available in a particular language, a structured interview and academic evaluation shall be conducted by personnel with proficiency in the particular language. Districts may refer to the Directory of Bilingual Resource Persons maintained by the Department of Education to identify such individuals.~~

Appendix A

Listing of English Language Proficiency Assessments

1. IDEA Proficiency Test (IPT)

Publisher: Ballard & Tighe Publishers

2. Language Assessment Scales (LAS)

Publisher: CTB/McGraw-Hill

3. Woodcock-Muñoz Language Survey (WMLS)

Publisher: Riverside Publishing Co.

4. Woodcock Language Proficiency Battery-Revised (WLPB-R)

Publisher: Riverside Publishing Co.